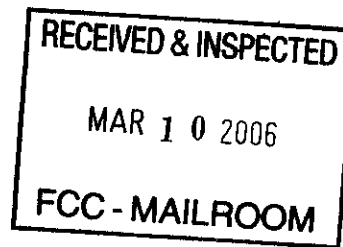


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DOCKET FILE COPY ORIGINAL

From: 9206834792
Media: Fax 13 pages
Subject:
Status:
Received: 09:31 AM 03/10/06



MRSD

Manitowoc Public School District
Administration Offices
1010 Huron Street
Post Office Box 1657
Manitowoc, WI 54221-1657
Phone: 920-686-4799

Facsimile Transmittal

Date: March 10, 2006

To: Federal Communications Commission **Fax:** 202-418-0187

From: Ken Mischler,
Director of Business Services **Fax:** 920-686-4760

Re: REQUEST FOR REVIEW **Pages:** 13

☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

RECEIVED & INSPECTED

MAR 10 2006

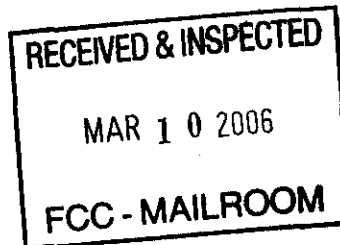
FCC - MAILROOM



Manitowoc Public School District

March 9, 2006

Federal Communication Commission
Office of the Secretary
445 12th Street SW
Room TW-A325
Washington, DC 20554



Dear FCC, Office of the Secretary:

The Manitowoc Public School District wishes a "Request for Review" of a USAC decision letter. The appeal is for the following:

CC Docket No.	02-6 96-45
Appellant Name	Kenneth W. Mischler
Applicant Name	Manitowoc Public School District
Billed Entity Name	Manitowoc Public School District
Billed Entity Number	133178
Service Provider Name	Manitowoc Public Utility (City of Manitowoc owned and operated)
Service Provider SPIN	143028503
Form 471 Application Number	447464
Administrator's Decision on Appeal - Funding Year 2005-2006	Attached Decision: \$0.00 - Invalid Telecom Carrier
Funding Commitment Decision Letter for Year 2005	Attached Decision: \$0.00 - Invalid Telecom Carrier
Funding Commitment Decision Explanation	This FRN is a request for Telecommunications Service from a carrier that does not provide telecommunications on a common carriage basis.

The Manitowoc Public School District wishes to appeal the decision based on the premise that the Manitowoc Public Utility is a valid telecommunications service provider and does provide such service on a common carriage basis.

The USAC denial letter (see attached letter) states the following:

- Upon review of the appeal and relevant documentation, it was determined that the service provider, Manitowoc Public Utility, has not met the FCC's eligible telecommunication carrier designation requirements.
- An Eligible Telecommunication Provider (ETP), a USAC term for "telecommunications carrier," is an entity that provides telecommunications services, i.e., "transmission services on a common carriage" basis. To be a telecommunications carrier, the carrier must (1) allow the customer to transmit information of its own

design and choosing, without change in the form or content of the information, and (2) provide that capability for a fee directly to the public, or to such classes of users as to be effectively available to the public (i.e., hold itself out to serve indifferently all potential users.)

USAC makes commitments for Telecommunication Services for applicants when the service provider is identified in USAC's database as an ETP; but notwithstanding that identification, it is the service provider that is responsible for ensuring it meets these requirements in all instances of discounted telecommunication services. All telecommunication carriers are required under FCC rules to file an FCC Form 499A. By filing a Form 499A and checking at least one of the boxes on line 227, USAC may designate a service provider as an eligible telecommunication provider in its database. Since your appeal has not brought forth persuasive information that SLD has erred in its determination, your appeal is denied.

- Your Form 471 indicates that you selected a service provider that has been designated as an eligible telecommunication carrier in the USAC database: Manitowoc Public Utility. FCC regulations provide that telecommunications carriers are eligible for universal service support. 47 C.F.R. § 54.501(a). The FCC has determined that to be eligible to receive universal service support for telecommunications services, the provider must provide telecommunications services on a common carrier basis. Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157 ¶ 134 (rel. May 8, 1997.)

I believe the USAC has erred in its determination because of the following:

- The USAC web site has the Manitowoc Public Utility listed as an eligible telecommunication provider (see below for a screen shot of the USAC web site.)

SLD Logo Site Map Search SLD Contact SLD

Reference Area - Schools and Libraries Division

Note to Applicants: Please check the address information to ensure you are contacting the correct Service Provider.
The absence of a "Y" in the Eligible Telecomm Provider column may simply indicate that the company has not yet been researched by the SLD to determine if it is eligible to provide telecommunications services. Applicants are reminded that they should confirm this and all other information with their Service Provider.

Page 1 of 1
Results 1 - 1 of 1

SPIN	Service Provider Name	Contact Name	Contact Address	Contact Phone	Eligible Telecomm Provider	SPAC Filed
143028503	Manitowoc Public Utilities	Steve Decalze	1303 South 6th Street Manitowoc, WI 54220	920686-4310	Y	2005

Manitowoc Public Utilities

Questions about the SLD Program? Call our Elbert Service Bureau at (800) 203-0100.
For web site questions or comments please use the Feedback form.

Universal Service Administrative Company - SLD
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- The Manitowoc Public Utility (MPU) has filed Form 499A which is required by FCC regulations.
- In addition, attached is a Certificate from the Public Service Commission of Wisconsin (PSCW), granting legal authority to the MPU (City of Manitowoc owned) to provide telecommunication services.

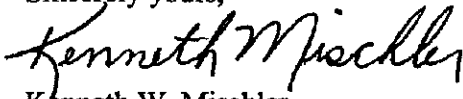
I believe that the Federal Communication Commission has the necessary information to make the determination that Manitowoc Public Utility (SPIN 14302853) is eligible to provide telecommunication services. Therefore, the Funding Commitment Decision needs to be changed to allow the amount of \$60,854.34 to be "Approved."

This letter of appeal is from:

Name	Kenneth W. Mischler
Title	Director of Business Services
School District Name	Manitowoc Public School District
Address	1010 Huron Street P.O. Box 1657 Manitowoc, WI 54221-1657
Telephone Number	920-686-4795
Fax Number	920-686-4754
Email Address	mischlerk@mpsd.k12.wi.us

If you have any questions, please feel free to contact me. Steve Bacalzo, MPU Manager of Engineering and Distribution Operations, is also available at 920-683-4600 to answer any questions about Manitowoc Public Utilities legal authority to provide telecommunication services.

Sincerely yours,



Kenneth W. Mischler
Director of Business Services

Cc: Steve Bacalzo

Encl:



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2005-2006

January 13, 2006

Kenneth W. Mischler
Manitowoc Public School District
1010 Huron Street
Post Office Box 1657
Manitowoc, WI 54221-1657

Re: Applicant Name: MANITOWOC PUBLIC SCHOOL DIST
Billed Entity Number: 133178
Form 471 Application Number: 447464
Funding Request Number(s): 1231844
Your Correspondence Dated: November 30, 2005

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2005 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1231844
Decision on Appeal: **Denied**
Explanation:

- In your appeal letter, you state that you are appealing the denial of your funding request because you believe that the Manitowoc Public Utility is a valid telecommunications service provider and does provide such service on a common carrier basis. To support your claim you included a letter that states Manitowoc Public Utility has legal authority to provide telecommunication services. You also include a certificate from the Public Service Commission of Wisconsin that grants legal authority to Manitowoc Public Utility to provide telecommunication services.
- Upon review of this appeal and the relevant documentation, it is determined that the service provider, Manitowoc Public Utility, has not met the FCC's eligible

telecommunications carrier designation requirements. According to the Item 21 attachment you submitted, this request is for a WAN, which is a telecommunication service. Your appeal letter does not suggest that this request is for any other type of service.

- An Eligible Telecommunications Provider (ETP), a USAC term used for "telecommunications carrier," is an entity that provides telecommunications services, i.e., transmission services on a common carriage" basis. To be a telecommunications carrier, the carrier must (1) allow the customer to transmit information of its own design and choosing, without change in the form or content of the information, and (2) provide that capability for a fee directly to the public, or to such classes of users as to be effectively available to the public (i.e., hold itself out to serve indifferently all potential users).

USAC makes commitments for Telecommunications Services for applicants when the service provider is identified in USAC's database as an ETP; but, notwithstanding that identification, it is the service provider that is responsible for ensuring it meets these requirements in all instances of discounted telecommunications services. All telecommunications carriers are required under FCC rules to file an FCC Form 499A. By filing a Form 499A and checking at least one of the boxes on line 227, USAC may designate a service provider as an eligible telecommunication provider in its database. Since your appeal has not brought forth persuasive information that SLD has erred in its determination, your appeal is denied.

- Your Form 471 indicates that you selected a service provider that has not been designated as an eligible telecommunication carrier in the USAC database: Manitowoc Public Utility. FCC regulations provide that telecommunications carriers are eligible for universal service support. 47 C.F.R. § 54.501(a). The FCC has determined that to be eligible to receive universal service support for telecommunications services, the provider must provide telecommunications services on a common carrier basis. Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157 ¶ 134 (rel. May 8, 1997).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company



Universal Service Administrative Company
Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER
(Funding Year 2005: 07/01/2005 - 06/30/2006)

November 9, 2005

Ken Mischler
MANITOWOC PUBLIC SCHOOL DIST
1010 HURON ST
MANITOWOC, WI 54220

Re: Form 471 Application Number: 447464
Funding Year 2005: 07/01/2005 - 06/30/2006
Billed Entity Number: 133178
Billed Entity FCC RN:
Applicant's Form Identifier: WAN2005

Thank you for your Funding Year 2005 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$60,854.34 is "Denied."

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

NEXT STEPS

- Work with your service provider to determine if you will receive discounted bills or if you will request reimbursement from USAC after paying your bills in full
- Review technology planning approval requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service provider) or Form 472 (Billed Entity) - as products and services are being delivered and billed

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) after you file your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that provides a definition for each line of the Report.

TO APPEAL THIS DECISION:

If you wish to appeal a decision in this letter, your appeal must be received by the SLD or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) e-mail address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the letter and the decision you are appealing:
 - Appellant name,
 - Applicant name and service provider name, if different from appellant,

- Applicant BEN and service provider SPIN,
 - Form 471 Application Number as assigned by the SLD,
 - Funding Commitment Decision Letter for Funding Year 2005," AND
 - The exact text or the decision that you are appealing.
3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.
 4. If you are the applicant, please provide a copy of your appeal to the service provider(s) affected by the SLD's decision. If you are the service provider, please provide a copy of your appeal to the applicant(s) affected by the SLD's decision.
 5. Provide an authorized signature on your letter of appeal.

To submit your appeal to the SLD by e-mail, use the "Submit a Question" feature on our web site at www.sl.universalservice.org. Click "Continue," choose "Appeals" from the Topics Inquiry on the lower portion of your screen, and click "Go" to begin your appeal submission. The system will prompt you through the process. The SLD will automatically reply to incoming e-mails to confirm receipt.

To submit your appeal to the SLD by fax, fax your appeal to (973) 599-6542.

To submit your appeal to the SLD on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division
Box 125 - Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use either the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our web site. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Universal Service Support Mechanism. Applicants who have received funding commitments continue to be subject to audits and other reviews that the Universal Service Administrative Company (USAC) and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. The SLD may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by the SLD, the applicant, or the service provider. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each E-rate funding request from your application is attached to this letter. We are providing the following definitions for the items in that report.

FORM 471 APPLICATION NUMBER: The unique identifier assigned to a Form 471 application by the SLD.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471. This number is used to report to applicants and service providers the status of individual funding requests submitted on a Form 471.

FUNDING STATUS: Each FRN will have one of the following definitions:

1. An FRN that is "Funded" is approved at the level that the SLD determined is appropriate for this FRN. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds were committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and a message that your Internal Connections requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

CATEGORY OF SERVICE: The type of service ordered from the service provider, as shown on your Form 471.

FORM 470 APPLICATION NUMBER: The Form 470 Application Number associated with this FRN from Block 5, Item 12 of the Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on your Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

SERVICE START DATE: The Service Start Date for this FRN from Block 5, Item 19 of your Form 471.

CONTRACT EXPIRATION DATE: The Contract Expiration Date for this FRN from Block 5, Item 20b of your Form 471. This will be present only if a contract expiration date was provided on your Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a. This will be present only for "site specific" FRNs.

NUMBER OF MONTHS RECURRING SERVICE PROVIDED IN FUNDING YEAR: The number of months of service that has been approved in the funding year. This will be present only for recurring services.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES: Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service approved for the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: The discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse your service provider for the approved discounts for this service for this funding year. It is important that you and your service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry provides an explanation of the amount in the "Funding Commitment Decision."

FCDL DATE: The date of this Funding Commitment Decision Letter (FCDL).

WAVE NUMBER: The wave number assigned to FCDLs issued on this date.

FUNDING COMMITMENT REPORT
Billed Entity Name: MANITOWOC PUBLIC SCHOOL DIST
BEN: 133178
Funding Year: 2005

Form 471 Application Number: 447464
Funding Request Number: 1231844
Funding Status: Not Funded
Category of Service: Telecommunications Service
Form 470 Application Number: 564820000
SPIN: 143028503
Service Provider Name: Manitowoc Public Utilities
Contract Number: N/A
Billing Account Number: N/A
Service Start Date: 07/01/2005
Contract Expiration Date: 06/30/2010
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$34,500.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$72,262.00
Pre-discount Amount: \$106,762.00
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - Invalid Telecom Carrier
Funding Commitment Decision Explanation: This FRN is a request for
Telecommunications Service from a carrier that does not provide telecommunications on
a common carriage basis.
FCDL Date: 11/09/2005
Wave Number: 020

Docket 3320-NC-100

CERTIFICATE


THE COMMISSION CERTIFIES:

The City of Manitowoc, is an alternative telecommunications utility, per Wis. Stat. § 196.01(1d)(f), authorized in Wisconsin to: (1) offer intrastate telecommunications service, whether switched or dedicated, including all telecommunications services available for certification in this proceeding, such as intraLATA and interLATA toll telecommunications, access services to telecommunications providers, and private line service; (2) resell services that are authorized for resale and provide operator services; and (3) provide facilities-based switched ~~local exchange services to business and residential customers in the present obliged to serve~~ local exchange territory (not including foreign exchange services, cross-LATA boundary services, or nonaffiliated local calling areas) of Ameritech.

The specified services certificated in (1) and (3) herein are subject to the interim conditions set forth in paras. 3 through 9 of the Order.

Dated at Madison, Wisconsin, August 17, 2000

By the Commission:


Lynda L. Dorr
Secretary to the Commission

LLD:MSV:KGB:reb:lep:g\order\pending\3320-NC-100

Attachments

See Attached Notice of Appeal Rights